

PROMOTION OF EQUALITY AND DIVERSITY FOR THE BENEFIT OF THE PUBLIC

1. Decision

The Commissioners have concluded that the promotion of equality and diversity for the benefit of the public is a charitable purpose. The Commission will accordingly consider applications from organisations established for such purpose for registration as a charity.

2. Background

The Commissioners have received a number of applications for registration as charities from organisations concerned with equality and diversity, although the expressed purposes and activities of those organisations varied. In some cases the purposes used to describe the activities of the organisation, such as prevention of discrimination on the grounds of age or sexual orientation, have not previously been recognised as charitable. In other cases, existing charitable purposes were used to describe the organisation's activities, such as promoting human rights, promoting health, relieving sickness or advancing education. However, though not directly stated, an examination of the activities indicated that they were in fact directed towards the promotion of equality and diversity. The Commissioners, therefore, considered whether or not they should recognise that to promote equality and diversity for the benefit of the public is a charitable purpose.

3. Recognition of a new charitable purpose

The Commissioners' policy on how it recognises new charitable purposes is set out in the Review of the Register publication RR1A¹. Broadly the Commissioners first determine whether the new purpose is analogous to a purpose recognised by the Courts or the Commission. The second step is to decide whether the purpose results in a real and substantial benefit to the public at large or a sufficient section of the community.

4. Analogies

The Commissioners considered that to promote equality and diversity is analogous to existing charitable purposes namely:

- i) the promotion of equality of women with men²;
- ii) the promotion of racial harmony³;
- iii) the moral or spiritual welfare and improvement of the community⁴;
- iv) the promotion of religious harmony⁵;
- v) the promotion of human rights⁶.

¹ Available on the Commission's website www.charitycommission.gov.uk

² Halpin v Seer Ch Comm AR 1977 para 34 (Women's Service Trust)

³ Ch Comm AR 1985 para 24

⁴ The most recent discussion of this purpose is in the Commissioner's decision of 17.11.1999 on the application for charitable status by The Church of Scientology which is available on the Commission's website under "Decisions of the Commission"

⁵ The Commissioners decision recognising this purpose is published on our website under "Review of the Register"

5. Public benefit

Whether or not to promote equality and diversity is a purpose for the benefit of the public is a question of law to be answered by forming a view on the evidence in light of current standards and social and cultural considerations⁷. If tangible and objective benefits cannot be shown, public benefit can be demonstrated by evidence of the “approval by the common understanding of enlightened opinion for the time being”⁸.

6. Evidence of public benefit

The Commissioners noted the considerable public harm caused by discrimination and the clear benefits arising from promoting diversity in society and considered that it was unnecessary to consider evidential proof on this point. They recognised that the overwhelming intangible benefit is a fairer and more just society in which people are valued for themselves⁹. They noted that their view is supported by evidence that:

- i) The promotion of diversity and equality could result in tangible benefits in reducing crime and conflict and, in the field of work, a more effective workforce¹⁰. In addition, understanding the diversity of society leads to a more appropriate delivery of services both in the public and private sphere.
- ii) There is a common understanding of enlightened opinion that promoting diversity and equality is for the benefit of the public in light of the following:
 - ◆ The promotion of diversity and equality by the Cabinet Office;
 - ◆ The recognition by employers of the benefits of diversity and equality in the workplace¹¹;
 - ◆ The Human Rights Act 1998 which incorporates Article 14 into domestic law¹²;
 - ◆ European Directive 2000/78/EC of 27th November 2000 which prohibits discrimination on the grounds of religion or belief, disability, age or sexual orientation in employment, occupation and vocational training;
 - ◆ Towards Equality and Diversity – The consultation paper issued by the Department of Trade & Industry setting out the Government’s plans for implementing this European Directive¹³;
 - ◆ Consultation on Civil Partnership Registration issued by the Women & Equality Unit of the Department of Trade & Industry on 30th June 2003 & other diversity proposals from this unit as set out on its website¹⁴.

⁶ A detailed explanation of the law is set out in the Commission’s Review of the Register publication RR12: The Promotion of Human Rights available on the Commission’s website

⁷ A detailed explanation of the law is set out in the Commission’s Review of the Register publication RR8: The Public Character of Charity available on the Commission’s website

⁸ National Anti-Vivisection Society v IRC [1947] AC 31 @ 49

⁹ See McGovern v Attorney General [1982] Ch 321 @ 333 on the requirements of public benefit

¹⁰ Cabinet Office Diversity website www.diversity-whatworks.gov.uk

¹¹ The national Diversity Champion scheme run by Stonewall has a wide membership including Marks & Spencer, Credit Suisse Bank, the Cabinet Office. The Charity Commission itself requires that every member of its staff has an objective to promote diversity in her or his work

¹² Right not to be discriminated against in the exercise a substantive right

¹³ Department of Trade and Industry website www.dti.gov.uk/er/equality/consult1.htm

¹⁴ www.womenandequalityunit.gov.uk

7. Considering future applications for registration

In order for the Commission to be satisfied that any particular organisation is established for the purpose of promoting equality and diversity, it will need to be satisfied that the particular activities it carries out are capable of furthering the purpose. We recognise that this purpose may be furthered in a number of ways, including training schemes for employers and organising activities with the purpose of encouraging people from diverse backgrounds to interact with each other. We will consider each application on its merits and will adopt an open approach to the ways in which the purpose can be furthered but will require this to be clearly demonstrated before being satisfied in any particular case. We recommend that an organisation set out the means by which it will pursue this purpose in its objects to assist this consideration.

8. Charities recognised as furthering this purpose

The Commission has registered organisations as charities furthering the purpose of promoting equality and diversity for the benefit of the public in a variety of ways.

The Age Equality Association (registered on 9 May 2003 under number 1097441) promotes equality and diversity by the elimination of discrimination on the grounds of age. Pink Parents (UK) Ltd (registered on 20 January 2003 under number 1095492) promotes equality and diversity by the elimination of discrimination in relation to lesbian, gay and bisexual parents and parents-to-be and their children. The North East Centre for Diversity and Racial Equality (registered on 20 June 2003 under number 1098139) promotes equality and diversity by working towards the elimination of racial discrimination and to promote equality of opportunity and good relations between persons of different racial groups.